



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Stephen A. FODOR *et al.*

Application No.: 10/694,541

Group Art Unit: 1634

Filed: October 28, 2003

Examiner: Jeanine A. Goldberg

For: Arrays for Detecting Nucleic Acids

Commissioner for Patents
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INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.97(c)

In accordance with the duty of disclosure set forth in 37 C.F.R. §1.56,
Applicant(s) hereby submits the following information in conformance with 37 C.F.R. §§1.97
and 1.98.

- ☐ Pursuant to 37 C.F.R. §1.98, copies of documents 50-61, 64-71, 74, 78, 80, 81 and 86-94 cited in the attached Form PTO-1449 are enclosed.
- ☒ Copies of the remaining publications listed on the attached Form PTO-1449 are not being provided pursuant to 37 C.F.R. §1.98(d) because the publications were previously cited by or submitted to the Office in prior Application Serial Nos.:
- 09/768,626, filed January 25, 2001 (now US Patent No. 6,576,424);
 - 09/670,563, filed September 27, 2000 (now US Patent No. 6,451,536);
 - 09/362,089, filed July 28, 1999 (now US Patent No. 6,440,667);
 - 09/056,927, filed April 8, 1998 (now US Patent No. 6,197,506);
 - 08/670,118, filed June 25, 1996 (now US Patent No. 5,800,992);
 - 08/168,904, filed December 15, 1993 (now abandoned);
 - 07/624,114, filed December 6, 1990 (now abandoned); and
 - 07/362,901, filed December 7, 1989 (now abandoned)
- to which the above-identified application claims priority under 35 U.S.C. §120.

- [x] Copies of documents that were not submitted in the above-mentioned related United States Patent Applications may be found in related United States Patent Application Nos.:
- 10/098,485, filed March 18, 2002;
- 09/585,557, filed June 2, 2000 (now US Patent No. 6,395,491);
- 09/585,556, filed June 2, 2000 (now US Patent No. 6,544,739);
- 09/585,659, filed June 2, 2000 (now US Patent No. 6,355,432);
- 09/054,420, filed April 3, 1998(now US Patent No. 5,925,525);
- 08/873,034, filed June 11, 1997(now US Patent No. 5,871,928); and
- 08/348,471, filed November 30, 1994 (now US Patent No. 6,420,169)
- Should the Examiner be unable to locate a document, a copy will be provided upon request.
- [x] Applicants would also like to bring to the Examiner's attention information from Civil Action No. 04-901-JJF in the U.S. District Court for the District of Delaware. Applicants note that this civil action involves multiple patents, including U.S. Patent Nos. 6,355,432 and 6,646,243, owned by the assignee of this application, , and the action is stylized as Affymetrix v. Illumina. Certain non-patent references asserted by Illumina as relevant to the patentability of various involved Affymetrix patents and/or certain claims of the '432 and '243 patents, which claims are generally directed to collections of encoded beads which have binding polymers of different target specific sequence attached thereto or to substrates comprising beads, spheres or particles comprising nucleic acids attached thereto, have been provided in the attached Form 1449. Additionally, the following patent documents were also asserted by Illumina as relevant to the patentability of certain claims of the '432 and 243 patents: EP 392,546, 5,219,763, GB 1561042, 5,028,545, 5,219,763, 5,700,637, 4,877,965, CA 1248873 and 5,348,855, all of which have been cited herein or previously provided in Information Disclosure Statements.
- Should the Examiner wish to review any documents in applicants' possession related to this action, the Examiner is invited to contact the undersigned and any documents requested will be forwarded.**
- [x] No copies of any U.S. patents or U.S. patent application publications listed on the attached Form PTO-1449 are being provided in accordance with MPEP 609.04(a).

- ☐ Publication(s) ___ listed on the attached Form PTO-1449 were cited in a foreign search or examination report corresponding to ___ application serial no. ___ and mailed on ___.
- ☐ Enclosed is a copy of a non-English publication(s) ___. Pursuant to §609 of the M.P.E.P., Applicant submits the attached foreign search or examination report, which cites such non-English language publication(s).
- ☐ Enclosed is a copy of a non-English publication(s) ___. English language publication ___ (copy enclosed) claims priority from this non-English publication.
- ☐ Enclosed is an explanation of non-English publication(s) ___ for which an English translation is not available.
- ☐ Enclosed is an English translation of non-English publication(s) ___ cited in the attached Form PTO/SB/08A.
- ☒ The Examiner's attention is directed to related co-pending United States Patent Application Serial Nos.:
- 10/098,485, filed March 18, 2002, cited herewith as US 2003/0104411;
- 10/102,774, filed March 22, 2002, cited herewith as US 2002/0192684;
- 10/102,915, filed March 22, 2002, cited herewith as US 2003/0003475;
- 10/098,484, filed March 18, 2002, cited herewith as US 2003/0119011;
- 10/125,428, filed April 19, 2002, cited herewith as US 2002/0155491;
- 10/125,460, filed April 19, 2002, cited herewith as US 2002/0155492;
- 10/125,530, filed April 19, 2002, cited herewith as US 2003/0017484;
- 10/694,536, filed October 28, 2003, cited herewith as US 2004/0248147;
- 10/993,432, filed November 22, 2004, cited herewith as US 2005/0112676;
- 10/992,782, filed November 22, 2004, cited herewith as US 2005/0158743; and
- 10/992,772, filed November 22, 2004, cited herewith as US 2005/0164249

This Information Disclosure Statement is filed after the period specified in 37 C.F.R. § 1.97(b), but before the mailing of:

- ☒ a final action under 37 C.F.R. §1.113;
- ☐ a notice of allowance under 37 C.F.R. §1.311; or
- ☐ an action that otherwise closes prosecution in this application.

In accordance with 37 C.F.R. §1.97(c) also enclosed is:

- ☒ Fee under 37 C.F.R. §1.17(p) in the amount of \$180.00; or
- ☐ Statement as specified in 37 C.F.R. §1.97(e):

- ☐ Each item of information contained in the Information Disclosure Statement cited herein was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing date of the Information Disclosure Statement; or
- ☐ No item of information contained in the Information Disclosure Statement submitted herewith was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned, having made a reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing date of the Information Disclosure Statement.

It is respectfully requested that the Examiner consider the above-noted information and return an initialed copy of the attached Form PTO-1449s to the undersigned. The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-1283.


Dated: June 12, 2006

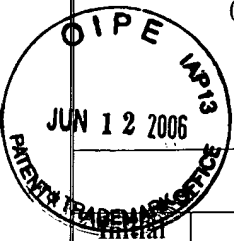
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Respectfully submitted,
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**INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

PTO Form 1449

Attorney Docket No.
AFFY-003/26USApplication No.
10/694,541Applicants: Stephen P.A. FODOR *et al.*

PAGE 1 of 5

Filing Date: October 28, 2003

Group Art Unit: 1634

U.S. PATENT DOCUMENTS

		Document No.	Date	Name	Class	Sub-Class	Filing Date
	1.	US 2002/0155491	10/24/2002	Fodor <i>et al.</i>			
	2.	US 2002/0155492	10/24/2002	Fodor <i>et al.</i>			
	3.	US 2002/0192684	12/19/2002	Fodor <i>et al.</i>			
	4.	US 2003/0003475	01/02/2003	Fodor <i>et al.</i>			
	5.	US 2003/0017484	01/23/2003	Fodor <i>et al.</i>			
	6.	US 2003/0104411	06/05/2003	Fodor <i>et al.</i>			
	7.	US 2003/0119011	06/23/2003	Fodor <i>et al.</i>			
	8.	US 2004/0067521	04/08/2004	Fodor <i>et al.</i>			
	9.	US 2005/0112676	05/26/2005	Fodor <i>et al.</i>			
	10.	US 2005/0158743	07/21/2005	Fodor <i>et al.</i>			
	11.	US 2005/0164249	07/28/2005	Fodor <i>et al.</i>			
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	14.	US 4,039,288	08/02/1977	Moran			
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	16.	US 4,258,001	03/24/1981	Pierce <i>et al.</i>			
	17.	US 4,395,486	07/26/1983	Wilson <i>et al.</i>			
	18.	US 4,430,299	02/07/1984	Horne			
	19.	US 4,595,562	06/17/1986	Liston <i>et al.</i>			
	20.	US 4,608,231	08/26/1986	Witty <i>et al.</i>			
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	22.	US 4,675,299	06/23/1987	Witty <i>et al.</i>			
	23.	US 4,676,951	06/30/1987	Armes <i>et al.</i>			
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	32.	US 5,171,534	12/15/1992	Smith <i>et al.</i>			
	33.	US 5,217,866	06/08/1993	Summerton <i>et al.</i>			
	34.	US 5,412,087	05/02/1995	McGall <i>et al.</i>			
	35.	US 5,432,099	06/11/1995	Ekins			

Examiner

Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

INFORMATION DISCLOSURE CITATION (Use several sheets if necessary) PTO Form 1449				Attorney Docket No. AFFY-003/26US		Application No. 10/694,541			
				Applicants: Stephen P.A. FODOR <i>et al.</i>				PAGE 2 of 5	
				Filing Date: October 28, 2003		Group Art Unit: 1634			

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	37.	US 5,556,752	09/17/1996	Lockhart <i>et al.</i>			
	38.	US 5,787,032	07/28/1998	Heller <i>et al.</i>			
	39.	US 5,835,404	11/10/1998	Heller <i>et al.</i>			
	40.	US 5,925,525	07/20/1999	Fodor <i>et al.</i>			
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	43.	US 6,140,044	10/31/2000	Besemer <i>et al.</i>			
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	45.	US 6,355,432	03/12/2002	Fodor <i>et al.</i>			
	46.	US 6,395,491	05/28/2002	Fodor <i>et al.</i>			
	47.	US 6,420,169	07/16/2002	Read <i>et al.</i>			
	48.	US 6,451,536	09/17/2002	Fodor <i>et al.</i>			
	49.	US 6,576,424	06/10/2003	Fodor <i>et al.</i>			

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	52.	EP 0 173 339 A2	03/05/1986	Europe			
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	58.	EP 0 237 362 B2	03/11/1992	Europe			
	59.	EP 0 281 927 B1	06/28/1995	Europe			
	60.	EP 0 514 927	11/25/1992	Europe			
	61.	WO 95/09248	04/06/1995	WIPO			

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		Filing Date: October 28, 2003	Group Art Unit: 1634	
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	78.	Lennon, G.G. and H. Lehrach, "Hybridization analyses of arrayed cDNA libraries," <i>Trends Genet.</i> 47(10) :314-317, Elsevier Science Publishers B.V., Amsterdam, The Netherlands (1991).		
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	85.	Southern, E.M., <i>et al.</i> , "Report on the Sequencing by Hybridization Workshop," <i>Genomics</i> 13 :1378-1383, Academic Press, San Diego, California (1992).		
	86.	Stodolsky, M., "Sequencing By Hybridization (SBH) The Rasomir Crkvenjakov Laboratory in 1989," 4 pages, (June 1989)		
	87.	Strezoska, Z., <i>et al.</i> , "DNA sequencing by hybridization: 100 bases read by a non-gel-based methods," <i>Proc. Natl. Acad. Sci. USA</i> 88 :10089-10093, National Academy of Sciences, Washington, D.C. (1991)		
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	92.	Lysov, Y.P., <i>et al.</i> , "A New Method for Determining the DNA nucleotide Sequence by Hybridization with Oligonucleotides," <i>Doklady Biochemistry</i> 303 :436-438 (May 1989) (Russian original volume 303(1-6) Nov.-Dec. 1988).		
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Examiner		Date Considered		
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